

**Introduced by Senator Wright**

February 27, 2009

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An act to amend Sections 327, 330, 365, 382, and 739.1 of, and to add Sections 739.9 and 745 to, the Public Utilities Code, and to amend Section 80110 of the Water Code, relating to energy, and declaring the urgency thereof, to take effect immediately.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 695, as introduced, Wright. Electricity: rates.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

This bill would prohibit the commission from requiring or permitting an electrical corporation to employ dynamic pricing for residential customers, but would authorize the commission to authorize an electrical corporation to offer residential customers the option of receiving service pursuant to dynamic pricing. The bill would, beginning January 1, 2016, authorize the commission to authorize an electrical corporation to employ default dynamic pricing for residential customers, if the customer has the option of receiving service pursuant to a rate schedule that is not based upon dynamic pricing and if residential customers that exercise the option to not receive service pursuant to the dynamic pricing incur no additional costs as a result of the exercise of that option.

(2) Existing law requires the commission to establish a program of assistance to low-income electric and gas customers, referred to as the California Alternate Rates for Energy or CARE program, and prohibits the cost to be borne solely by any single class of customer.

This bill would require the commission to establish the CARE program to provide assistance to low-income electric and gas customers with annual household incomes at or below 200% of the federal poverty guideline levels, and require that the cost of the program, with respect to electrical corporations, be recovered on an equal cent-per-kilowatthour basis from all classes of customers that were subject to the surcharge that funded the CARE program on January 1, 2008.

(3) Existing law relative to electrical restructuring requires that the electrical corporations and gas corporations that participate in the CARE program administer low-income energy efficiency and rate assistance programs described in specified statutes, and undertake certain actions in administering specified energy efficiency and weatherization programs.

This bill would require that electrical corporations, in administering the specified energy efficiency and weatherization programs, to target energy efficiency and solar programs to upper-tier and multifamily customers in a manner that will result in long-term permanent reductions in electricity usage and develop programs that specifically target new construction by, and new and retrofit appliances for, nonprofit affordable housing providers. The bill would require the commission to require electrical corporations to deploy enhanced Low-Income Energy Efficiency (LIEE) programs, as defined, designed to reach as many eligible customers as practicable by December 31, 2014, particularly targeting those customers occupying apartment houses or similar multiunit residential structures, and would require the commission and electrical corporations and gas corporations to expend all reasonable efforts to coordinate ratepayer-funded programs with other energy conservation and efficiency programs and to obtain additional federal funding to support actions undertaken pursuant to this requirement.

(4) Existing law relative to electrical restructuring requires the commission to authorize and facilitate direct transactions between electricity suppliers and retail end-use customers.

Existing law requires the commission to designate a baseline quantity of electricity and gas necessary for a significant portion of the reasonable energy needs of the average residential customer, and requires that electrical and gas corporations file rates and charges, to be approved by the commission, providing baseline rates and requires the commission, in establishing baseline rates, to avoid excessive rate increases for residential customers.

Existing law enacted during the energy crisis of 2000–01, authorized the Department of Water Resources, until January 1, 2003, to enter into contracts for the purchase of electricity, and to sell electricity to retail end use customers and, with specified exceptions, local publicly owned electric utilities, at not more than the department’s acquisition costs and to recover those costs through the issuance of bonds to be repaid by ratepayers. That law provides that the department is entitled to recover certain expenses resulting from its purchases and sales of electricity and authorizes the commission to enter into an agreement with the department relative to cost recovery. That law prohibits the commission from increasing the electricity charges in effect on February 1, 2001, for residential customers for existing baseline quantities or usage by those customers of up to 130% of then existing baseline quantities, until the department has recovered the costs of electricity it procured for electrical corporation retail end use customers. That law also suspends the right of retail end-use customers, other than community choice aggregators and a qualifying direct transaction customer, to acquire service through a direct transaction until the Department of Water Resources no longer supplies electricity under that law.

This bill would delete the prohibition that the commission not increase the electricity charges in effect on February 1, 2001, for residential customers for existing baseline quantities or usage by those customers of up to 130% of then existing baseline quantities. The bill would authorize the commission, until January 1, 2019, to increase the rates charged residential customers for electricity usage up to 130% of the baseline quantities by the annual percentage change in the Consumer Price Index from the prior year plus 1%, but not less than 3% and not more than 5% per year. This authorization would be subject to the limitation that rates charged residential customers for electricity usage up to the baseline quantities, including any customer charge revenues, not exceed 90% of the system average rate, as defined. The bill would authorize the commission to increase the rates for participants in the CARE program, subject to certain limitations. The bill would require the commission to authorize direct transactions subject to a phase-in schedule of not less than 3 years and not more than 5 years, and subject to total and yearly direct transaction limits established, as specified, for each electrical corporation. The bill would continue the suspension of direct transactions except as expressly authorized, until the Legislature,

by statute, repeals the suspension or otherwise authorizes direct transactions.

(5) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because certain of the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(7) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 327 of the Public Utilities Code is  
2 amended to read:

3 327. (a) The ~~electric~~ *electrical corporations* and gas  
4 corporations that participate in the California ~~Alternative~~ *Alternate*  
5 Rates for Energy program, as established pursuant to Section 739.1,  
6 shall administer low-income energy efficiency and rate assistance  
7 programs described in Sections 382, 739.1, 739.2, and 2790,  
8 subject to commission oversight. In administering the programs  
9 described in Section 2790, the ~~electric~~ *electrical corporations* and  
10 gas corporations, to the extent ~~practical~~ *practicable*, shall do all  
11 of the following:

12 (1) Continue to leverage funds collected to fund the program  
13 described in subdivision (a) with funds available from state and  
14 federal sources.

15 (2) Work with state and local agencies, community-based  
16 organizations, and other entities to ensure efficient and effective  
17 delivery of programs.

18 (3) Encourage local employment and job skill development.

19 (4) Maximize the participation of eligible participants.

1 (5) Work to reduce consumers electric and gas consumption,  
2 and bills.

3 (6) *For electrical corporations, target energy efficiency and*  
4 *solar programs to upper-tier and multifamily customers in a*  
5 *manner that will result in long-term permanent reductions in*  
6 *electricity usage, and develop programs that specifically target*  
7 *new construction by, and new and retrofit appliances for, nonprofit*  
8 *affordable housing providers.*

9 (b) If the commission requires low-income energy efficiency  
10 programs to be subject to competitive bidding, the electric and gas  
11 corporation described in subdivision (a), as part of their bid  
12 evaluation criteria, shall consider both cost-of-service criteria and  
13 quality-of-service criteria. The bidding criteria, at a minimum,  
14 shall recognize all of the following factors:

15 (1) The bidder's experience in delivering programs and services,  
16 including, but not limited to, weatherization, appliance repair and  
17 maintenance, energy education, outreach and enrollment services,  
18 and bill payment assistance programs to targeted communities.

19 (2) The bidder's knowledge of the targeted communities.

20 (3) The bidder's ability to reach targeted communities.

21 (4) The bidder's ability to utilize and employ people from the  
22 local area.

23 (5) The bidder's general contractor's license and evidence of  
24 good standing with the Contractors' State License Board.

25 (6) The bidder's performance quality as verified by the funding  
26 source.

27 (7) The bidder's financial stability.

28 (8) The bidder's ability to provide local job training.

29 (9) Other attributes that benefit local communities.

30 (c) Notwithstanding subdivision (b), the commission may  
31 modify the bid criteria based upon public input from a variety of  
32 sources, including representatives from low-income communities  
33 and the program administrators identified in subdivision (b), in  
34 order to ensure the effective and efficient delivery of high quality  
35 low-income energy efficiency programs.

36 SEC. 2. Section 330 of the Public Utilities Code is amended  
37 to read:

38 330. In order to provide guidance in carrying out this chapter,  
39 the Legislature finds and declares all of the following:

(a) It is the intent of the Legislature that a cumulative rate reduction of at least 20 percent be achieved not later than April 1, 2002, for residential and small commercial customers, from the rates in effect on June 10, 1996. In determining that the April 1, 2002, rate reduction has been met, the commission shall exclude the costs of the competitively procured electricity and the costs associated with the rate reduction bonds, as defined in Section 840.

(b) The people, businesses, and institutions of California spend nearly twenty-three billion dollars (\$23,000,000,000) annually on electricity, so that reductions in the price of electricity would significantly benefit the economy of the state and its residents.

(c) The Public Utilities Commission has opened rulemaking and investigation proceedings with regard to restructuring California's ~~electric power~~ *electrical* industry and reforming utility regulation.

(d) The commission has found, after an extensive public review process, that the interests of ratepayers and the state as a whole will be best served by moving from the regulatory framework existing on January 1, 1997, in which retail electricity service is provided principally by electrical corporations subject to an obligation to provide ultimate consumers in exclusive service territories with reliable electric service at regulated rates, to a framework under which competition would be allowed in the supply of ~~electric power~~ *electricity* and customers would be allowed to have the right to choose their supplier of ~~electric power~~ *electricity*.

(e) Competition in the electric generation market will encourage innovation, efficiency, and better service from all market participants, and will permit the reduction of costly regulatory oversight.

(f) The delivery of electricity over transmission and distribution systems is currently regulated, and will continue to be regulated to ensure system safety, reliability, environmental protection, and fair access for all market participants.

(g) Reliable electric service is of utmost importance to the safety, health, and welfare of the state's citizenry and economy. It is the intent of the Legislature that electric industry restructuring should enhance the reliability of the interconnected regional transmission

1 systems, and provide strong coordination and enforceable protocols  
2 for all users of the ~~power~~ *electrical* grid.

3 (h) It is important that sufficient supplies of electric generation  
4 will be available to maintain the reliable service to the citizens and  
5 businesses of the state.

6 (i) Reliable electric service depends on conscientious inspection  
7 and maintenance of transmission and distribution systems. To  
8 continue and enhance the reliability of the delivery of electricity,  
9 the Independent System Operator and the commission, respectively,  
10 should set inspection, maintenance, repair, and replacement  
11 standards.

12 (j) It is the intent of the Legislature that California enter into a  
13 compact with western region states. That compact should require  
14 the publicly and investor-owned utilities located in those states,  
15 that sell energy to California retail customers, to adhere to  
16 enforceable standards and protocols to protect the reliability of the  
17 interconnected regional transmission and distribution systems.

18 (k) In order to achieve meaningful wholesale and retail  
19 competition in the electric generation market, it is essential to do  
20 all of the following:

21 (1) Separate monopoly utility transmission functions from  
22 competitive generation functions, through development of  
23 independent, third-party control of transmission access and pricing.

24 (2) Permit ~~all~~ customers to choose from among competing  
25 suppliers of ~~electric power~~ *electricity*.

26 (3) Provide customers and suppliers with open,  
27 nondiscriminatory, and comparable access to transmission and  
28 distribution services.

29 (l) The commission has properly concluded that:

30 (1) This competition will best be introduced by the creation of  
31 an Independent System Operator and an independent Power  
32 Exchange.

33 (2) Generation of electricity should be open to competition.

34 (3) There is a need to ensure that no participant in these new  
35 market institutions has the ability to exercise significant market  
36 power so that operation of the new market institutions would be  
37 distorted.

38 (4) These new market institutions should commence  
39 simultaneously with the phase in of customer choice, and the public  
40 will be best served if these institutions and the nonbypassable

1 transition cost recovery mechanism referred to in subdivisions (s)  
2 to (w), inclusive, are in place simultaneously and no later than  
3 January 1, 1998.

4 (m) It is the intention of the Legislature that California's publicly  
5 owned electric utilities and investor-owned electric utilities should  
6 commit control of their transmission facilities to the Independent  
7 System Operator. These utilities should jointly advocate to the  
8 Federal Energy Regulatory Commission a pricing methodology  
9 for the Independent System Operator that results in an equitable  
10 return on capital investment in transmission facilities for all  
11 Independent System Operator participants.

12 (n) Opportunities to acquire ~~electric power~~ *electricity* in the  
13 competitive market ~~must be available to California consumers as~~  
14 ~~soon as practicable, but no later than January 1, 1998, so that all~~  
15 ~~customers can share in the benefits of competition~~ *should be*  
16 *restrained to the extent necessary to ensure electrical system*  
17 *reliability and market functionality.*

18 (o) Under the existing regulatory framework, California's  
19 electrical corporations were granted franchise rights to provide  
20 electricity to consumers in their service territories.

21 (p) Consistent with federal and state policies, California  
22 electrical corporations invested in ~~power plants~~ *powerplants* and  
23 entered into contractual obligations in order to provide reliable  
24 electrical service on a nondiscriminatory basis to all consumers  
25 within their service territories who requested service.

26 (q) The cost of these investments and contractual obligations  
27 are currently being recovered in electricity rates charged by  
28 electrical corporations to their consumers.

29 (r) Transmission and distribution of ~~electric power~~ *electricity*  
30 remain essential services imbued with the public interest that are  
31 provided over facilities owned and maintained by the state's  
32 electrical corporations.

33 (s) It is proper to allow electrical corporations an opportunity  
34 to continue to recover, over a reasonable transition period, those  
35 costs and categories of costs for generation-related assets and  
36 obligations, including costs associated with any subsequent  
37 renegotiation or buyout of existing generation-related contracts,  
38 that the commission, prior to December 20, 1995, had authorized  
39 for collection in rates and that may not be recoverable in market  
40 prices in a competitive generation market, and appropriate additions



1 incurred after December 20, 1995, for capital additions to  
2 generating facilities existing as of December 20, 1995, that the  
3 commission determines are reasonable and should be recovered,  
4 provided that the costs are necessary to maintain those facilities  
5 through December 31, 2001. In determining the costs to be  
6 recovered, it is appropriate to net the negative value of above  
7 market assets against the positive value of below market assets.

8 (t) The transition to a competitive generation market should be  
9 orderly, protect electric system reliability, provide the investors  
10 in these electrical corporations with a fair opportunity to fully  
11 recover the costs associated with commission approved  
12 generation-related assets and obligations, and be completed as  
13 expeditiously as possible.

14 (u) The transition to expanded customer choice, competitive  
15 markets, and performance based ratemaking as described in  
16 Decision 95-12-063, as modified by Decision 96-01-009, of the  
17 Public Utilities Commission, can produce hardships for employees  
18 who have dedicated their working lives to utility employment. It  
19 is preferable that any necessary reductions in the utility workforce  
20 directly caused by electrical restructuring, be accomplished through  
21 offers of voluntary severance, retraining, early retirement,  
22 outplacement, and related benefits. Whether workforce reductions  
23 are voluntary or involuntary, reasonable costs associated with these  
24 sorts of benefits should be included in the competition transition  
25 charge.

26 (v) Charges associated with the transition should be collected  
27 over a specific period of time on a nonbypassable basis and in a  
28 manner that does not result in an increase in rates to customers of  
29 electrical corporations. In order to insulate the policy of  
30 nonbypassability against incursions, if exemptions from the  
31 competition transition charge are granted, a firewall shall be created  
32 that segregates recovery of the cost of exemptions as follows:

33 (1) The cost of the competition transition charge exemptions  
34 granted to members of the combined class of residential and small  
35 commercial customers shall be recovered only from those  
36 customers.

37 (2) The cost of the competition transition charge exemptions  
38 granted to members of the combined class of customers other than  
39 residential and small commercial customers shall be recovered  
40 only from those customers. The commission shall retain existing

1 cost allocation authority provided that the firewall and rate freeze  
2 principles are not violated.

3 (w) It is the intent of the Legislature to require and enable  
4 electrical corporations to monetize a portion of the competition  
5 transition charge for residential and small commercial consumers  
6 so that these customers will receive rate reductions of no less than  
7 10 percent for 1998 continuing through 2002. Electrical  
8 corporations shall, by June 1, 1997, or earlier, secure the means  
9 to finance the competition transition charge by applying  
10 concurrently for financing orders from the Public Utilities  
11 Commission and for rate reduction bonds from the California  
12 Infrastructure and Economic Development Bank.

13 (x) California's public utility electrical corporations provide  
14 substantial benefits to all Californians, including employment and  
15 support of the state's economy. Restructuring the electric services  
16 industry pursuant to the act that added this chapter will continue  
17 these benefits, and will also offer meaningful and immediate rate  
18 reductions for residential and small commercial customers, and  
19 facilitate competition in the supply of ~~electric power~~ *electricity*.

20 SEC. 3. Section 365 of the Public Utilities Code is amended  
21 to read:

22 365. The actions of the commission pursuant to this chapter  
23 shall be consistent with the findings and declarations contained in  
24 Section 330. In addition, the commission shall do all of the  
25 following:

26 (a) Facilitate the efforts of the state's electrical corporations to  
27 develop and obtain authorization from the Federal Energy  
28 Regulatory Commission for the creation and operation of an  
29 Independent System Operator and an independent Power Exchange,  
30 for the determination of which transmission and distribution  
31 facilities are subject to the exclusive jurisdiction of the commission,  
32 and for approval, to the extent necessary, of the cost recovery  
33 mechanism established as provided in Sections 367 to 376,  
34 inclusive. The commission shall also participate fully in all  
35 proceedings before the Federal Energy Regulatory Commission  
36 in connection with the Independent System Operator and the  
37 independent Power Exchange, and shall encourage the Federal  
38 Energy Regulatory Commission to adopt protocols and procedures  
39 that strengthen the reliability of the interconnected transmission  
40 grid, encourage all publicly owned utilities in California to become

1 full participants, and maximize enforceability of such protocols  
2 and procedures by all market participants.

3 (b) (1) Authorize direct transactions between electricity  
4 suppliers and end use customers, subject to ~~implementation of the~~  
5 ~~nonbypassable charge referred to in Sections 367 to 376, inclusive.~~  
6 ~~Direct transactions shall commence simultaneously with the start~~  
7 ~~of an Independent System Operator and Power Exchange referred~~  
8 ~~to in subdivision (a). The simultaneous commencement shall occur~~  
9 ~~as soon as practicable, but no later than January 1, 1998 the direct~~  
10 ~~transaction limits of this subdivision. The~~

11 (2) *The commission shall develop a and implement a direct*  
12 *access phase-in schedule at the conclusion of which all customers*  
13 *shall have the right to engage in direct transactions for each*  
14 *electrical corporation that incorporates a total and yearly direct*  
15 *transaction limit of a specified amount of electricity that may be*  
16 *procured through direct transactions. Any*

17 (3) *The phase-in period shall be determined by the commission*  
18 *for each electrical corporation and shall be for not less than three*  
19 *years, and for not more than five years, duration. The purpose of*  
20 *the phase-in period is to ensure electrical system reliability and*  
21 *market functionality, while avoiding stranded costs being incurred*  
22 *by electrical corporations in meeting their duty or obligation to*  
23 *provide reliable electric service.*

24 (4) *The total and yearly direct transaction limits shall be*  
25 *determined by the commission as follows:*

26 (A) *The commission shall, for each electrical corporation,*  
27 *determine the maximum load serviced through direct transactions*  
28 *within the service territory of the electrical corporation during*  
29 *the period from April 1, 1998, to February 1, 2001, inclusive. The*  
30 *maximum load shall be determined as a specified amount of*  
31 *electricity and not a percentage of overall load within the electrical*  
32 *corporation's service territory.*

33 (B) *The commission shall, for each electrical corporation,*  
34 *determine the load serviced through direct transactions within the*  
35 *service territory of the electrical corporation as of January 1,*  
36 *2009.*

37 (C) *The total direct transaction limit shall be the difference*  
38 *between the maximum load serviced through direct transactions*  
39 *within the service territory of the electrical corporation during*  
40 *the period from April 1, 1998, to February 1, 2001, inclusive,*

1 minus the load serviced through direct transactions within the  
2 service territory of the electrical corporation as of January 1,  
3 2009.

4 (D) The yearly direct transaction limit shall be the total direct  
5 transaction limit divided by the number of years in the phase-in  
6 period adopted for that electrical corporation by the commission.

7 (5) The commission may authorize a direct transaction that  
8 results in a quantity of electricity being purchased in excess of an  
9 electrical corporation's yearly direct transaction limit during the  
10 phase-in period when, at the time the direct transaction is entered  
11 into, the load being served through direct transactions within the  
12 service territory of that electrical corporation was below the yearly  
13 direct transaction limit, and as a result of the direct transaction,  
14 the limit is reached and exceeded by a nonsubstantial margin.

15 (6) The commission may authorize a direct transaction that  
16 results in a quantity of electricity being purchased in excess of the  
17 electrical corporation's total direct transaction limit when, at the  
18 time the direct transaction is entered into, the load being served  
19 through direct transactions within the service territory of that  
20 electrical corporation was below the total direct transaction limit,  
21 and as a result of the direct transaction, the limit is reached and  
22 exceeded by a nonsubstantial margin.

23 (7) The commission shall establish, in advance, procedures for  
24 obtaining the approval of a direct transaction pursuant to  
25 paragraphs (5) and (6).

26 (8) Any phase-in of customer eligibility for direct transactions  
27 ordered by the commission shall be equitable to all customer  
28 classes and accomplished as soon as practicable, consistent with  
29 operational and other technological considerations, ~~and shall be~~  
30 ~~completed for all customers by January 1, 2002.~~

31 (2)

32 (c) Customers shall be eligible for direct access irrespective of  
33 any direct access phase-in implemented pursuant to this section if  
34 at least one-half of that customer's electrical load is supplied by  
35 energy from a renewable resource provider certified pursuant to  
36 ~~Section 383~~ *an eligible renewable energy resource, as defined in*  
37 *Section 399.12*, provided however that nothing in this section shall  
38 provide for direct access for electric consumers served by municipal  
39 utilities unless so authorized by the governing board of that  
40 municipal utility.

1     (d) *The commission shall not authorize direct transactions other*  
2     *than as expressly authorized by this section.*

3     SEC. 4. Section 382 of the Public Utilities Code is amended  
4     to read:

5     382. (a) Programs provided to low-income electricity  
6     customers, including, but not limited to, targeted energy-efficiency  
7     services and the California Alternate Rates for Energy program  
8     shall be funded at not less than 1996 authorized levels based on  
9     an assessment of customer need.

10    (b) In order to meet legitimate needs of electric and gas  
11    customers who are unable to pay their electric and gas bills and  
12    who satisfy eligibility criteria for assistance, recognizing that  
13    electricity is a basic necessity, and that all residents of the state  
14    should be able to afford essential electricity and gas supplies, the  
15    commission shall ensure that low-income ratepayers are not  
16    jeopardized or overburdened by monthly energy expenditures.  
17    Energy expenditure may be reduced through the establishment of  
18    different rates for low-income ratepayers, different levels of rate  
19    assistance, and energy efficiency programs.

20    (c) Nothing in this section shall be construed to prohibit electric  
21    and gas providers from offering any special rate or program for  
22    low-income ratepayers that is not specifically required in this  
23    section.

24    (d) The commission shall allocate funds necessary to meet the  
25    low-income objectives in this section.

26    (e) Beginning in 2002, an assessment of the needs of low-income  
27    electricity and gas ratepayers shall be conducted periodically by  
28    the commission with the assistance of the Low-Income Oversight  
29    Board. The assessment shall evaluate low-income program  
30    implementation and the effectiveness of weatherization services  
31    and energy efficiency measures in low-income households. The  
32    assessment shall consider whether existing programs adequately  
33    address low-income electricity and gas customers' energy  
34    expenditures, hardship, language needs, and economic burdens.

35    (f) *The commission shall require electrical corporations to*  
36    *deploy enhanced low-income energy efficiency programs designed*  
37    *to reach as many eligible customers as practicable by December*  
38    *31, 2014, particularly targeting those customers occupying*  
39    *apartments or similar multiunit residential structures. The*  
40    *commission and electrical corporations and gas corporations shall*

1 *make all reasonable efforts to coordinate ratepayer-funded*  
2 *programs with other energy conservation and efficiency programs*  
3 *and to obtain additional federal funding to support actions*  
4 *undertaken pursuant to this subdivision. For purposes of this*  
5 *subdivision, “enhanced programs” are programs that provide*  
6 *long-term reductions in energy consumption at the dwelling unit*  
7 *based on an audit or assessment of the dwelling unit, and may*  
8 *include improved insulation, energy efficient appliances, measures*  
9 *that utilize solar energy, and other cost-effective improvements to*  
10 *the physical structure.*

11 SEC. 5. Section 739.1 of the Public Utilities Code is amended  
12 to read:

13 739.1. (a) The commission shall establish a program of  
14 assistance to low-income electric and gas customers *with annual*  
15 *household incomes at or below 200 percent of the federal poverty*  
16 *guideline levels*, the cost of which, *for an electrical corporation,*  
17 ~~shall not be borne solely by any single class of customer be~~  
18 ~~recovered on an equal cent-per-kilowatthour basis from all classes~~  
19 ~~of customers that were subject to the surcharge that funded the~~  
20 ~~program on January 1, 2008.~~ The program shall be referred to as  
21 the California Alternate Rates for Energy or CARE program. The  
22 commission shall ensure that the level of discount for low-income  
23 electric and gas customers correctly reflects the level of need.

24 (b) The commission shall work with the public utility electrical  
25 and gas corporations to establish penetration goals. The  
26 commission shall authorize recovery of all administrative costs  
27 associated with the implementation of the CARE program that the  
28 commission determines to be reasonable, through a balancing  
29 account mechanism. Administrative costs shall include, but are  
30 not limited to, outreach, marketing, regulatory compliance,  
31 certification and verification, billing, measurement and evaluation,  
32 and capital improvements and upgrades to communications and  
33 processing equipment.

34 (c) The commission shall examine methods to improve CARE  
35 enrollment and participation. This examination shall include, but  
36 need not be limited to, comparing information from CARE and  
37 the Universal Lifeline Telephone Service (ULTS) to determine  
38 the most effective means of utilizing that information to increase  
39 CARE enrollment, automatic enrollment of ULTS customers who  
40 are eligible for the CARE program, customer privacy issues, and

1 alternative mechanisms for outreach to potential enrollees. The  
2 commission shall ensure that a customer consents prior to  
3 enrollment. The commission shall consult with interested parties,  
4 including ULTS providers, to develop the best methods of  
5 informing ULTS customers about other available low-income  
6 programs, as well as the best mechanism for telephone providers  
7 to recover reasonable costs incurred pursuant to this section.

8 (d) (1) The commission shall improve the CARE application  
9 process by cooperating with other entities and representatives of  
10 California government, including the California Health and Human  
11 Services Agency and the Secretary of California Health and Human  
12 Services, to ensure that all gas and electric customers eligible for  
13 public assistance programs in California that reside within the  
14 service territory of an electrical corporation or gas corporation,  
15 are enrolled in the CARE program. To the extent practicable, the  
16 commission shall develop a CARE application process using the  
17 existing ULTS application process as a model. The commission  
18 shall work with public utility electrical and gas corporations and  
19 the Low-Income Oversight Board established in Section 382.1 to  
20 meet the low-income objectives in this section.

21 (2) The commission shall ensure that an electrical corporation  
22 or gas corporation with a commission-approved program to provide  
23 discounts based upon economic need in addition to the CARE  
24 program, including a Family Electric Rate Assistance program,  
25 utilize a single application form, to enable an applicant to  
26 alternatively apply for any assistance program for which the  
27 applicant may be eligible. It is the intent of the Legislature to allow  
28 applicants under one program, that may not be eligible under that  
29 program, but that may be eligible under an alternative assistance  
30 program based upon economic need, to complete a single  
31 application for any commission-approved assistance program  
32 offered by the public utility.

33 (e) The commission's program of assistance to low-income  
34 electric and gas customers shall, as soon as practicable, include  
35 nonprofit group living facilities specified by the commission, if  
36 the commission finds that the residents in these facilities  
37 substantially meet the commission's low-income eligibility  
38 requirements and there is a feasible process for certifying that the  
39 assistance shall be used for the direct benefit, such as improved  
40 quality of care or improved food service, of the low-income

1 residents in the facilities. The commission shall authorize utilities  
2 to offer discounts to eligible facilities licensed or permitted by  
3 appropriate state or local agencies, and to facilities, including  
4 women’s shelters, hospices, and homeless shelters, that may not  
5 have a license or permit but provide other proof satisfactory to the  
6 utility that they are eligible to participate in the program.

7 (f) It is the intent of the Legislature that the commission ensure  
8 CARE program participants are afforded the lowest possible  
9 electric and gas rates and, to the extent possible, are exempt from  
10 additional surcharges attributable to the energy crisis of 2000–01.

11 (g) (1) *As used in this subdivision, the following terms have the*  
12 *following meanings:*

13 (A) *“Baseline quantity” has the same meaning as defined in*  
14 *Section 739.*

15 (B) *“California Solar Initiative” means the program providing*  
16 *ratepayer funded incentives for eligible solar energy systems*  
17 *adopted by the commission in Decision 05-12-044 and Decision*  
18 *06-01-024, as modified by Article 1 (commencing with Section*  
19 *2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with*  
20 *Section 25780) of Division 15 of the Public Resources Code.*

21 (C) *“CalWORKs program” means the program established*  
22 *pursuant to the California Work Opportunity and Responsibility*  
23 *to Kids Act (Chapter 2 (commencing with Section 11200) of Part*  
24 *3 of Division 9 the Welfare and Institutions Code).*

25 (D) *“Public goods charge” means the nonbypassable separate*  
26 *rate component imposed pursuant to Article 7 (commencing with*  
27 *Section 381) or Chapter 2.3 and the nonbypassable system benefits*  
28 *charge imposed pursuant to the Reliable Electric Service*  
29 *Investments Act (Article 15 (commencing with Section 399) of*  
30 *Chapter 2.3).*

31 (2) *The commission may, subject to the limitation in paragraph*  
32 *(4), increase the rates in effect for CARE program participants*  
33 *for electricity usage up to 130 percent of baseline quantities by*  
34 *the annual percentage increase in benefits under the CalWORKs*  
35 *program as authorized by the Legislature for the fiscal year in*  
36 *which the rate increase would take effect, but not to exceed 3*  
37 *percent per year. This paragraph shall become inoperative on*  
38 *January 1, 2019, unless a later enacted statute deletes or extends*  
39 *that date.*



1     (3) *Beginning January 1, 2019, the commission may, subject to*  
2 *the limitation in paragraph (4), establish rates for CARE program*  
3 *participants pursuant to Sections 739, 739.1, and 739.9, subject*  
4 *to the requirements of subdivision (b) of Section 382 that the*  
5 *commission ensure that low-income ratepayers are not jeopardized*  
6 *or overburdened by monthly energy expenditures.*

7     (4) *Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80*  
8 *percent of the corresponding rates charged residential customers*  
9 *not participating in the CARE program, excluding any Department*  
10 *of Water Resources bond charge imposed pursuant to Division 27*  
11 *(commencing with Section 80000) of the Water Code, the CARE*  
12 *surcharge portion of the public goods charge, any charge imposed*  
13 *pursuant to the California Solar Initiative, and any charge imposed*  
14 *to fund any other program that exempts CARE participants from*  
15 *paying the charge.*

16     (5) *Rates charged CARE program participants shall not have*  
17 *more than three tiers. An electrical corporation that does not have*  
18 *a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order*  
19 *to moderate the impact on program participants whose usage*  
20 *exceeds 130 percent of baseline quantities, shall be phased in to*  
21 *80 percent of the corresponding rates charged residential*  
22 *customers not participating in the CARE program, excluding any*  
23 *Department of Water Resources bond charge imposed pursuant*  
24 *to Division 27 (commencing with Section 80000) of the Water*  
25 *Code, the CARE surcharge portion of the public goods charge,*  
26 *any charge imposed pursuant to the California Solar Initiative,*  
27 *and any other charge imposed to fund a program that exempts*  
28 *CARE participants from paying the charge. The initial rate shall*  
29 *be no more than 150 percent of the baseline CARE rate. Any*  
30 *additional revenues collected by an electrical corporation resulting*  
31 *from the adoption of a tier 3 CARE rate shall, until the utility's*  
32 *next periodic general rate case review of cost allocation and rate*  
33 *design, be tracked and credited to reduce rates of residential*  
34 *ratepayers not participating in the CARE program with usage*  
35 *above 130 percent of baseline quantities.*

36     SEC. 6. Section 739.9 is added to the Public Utilities Code, to  
37 read:

38     739.9. (a) The commission may, subject to the limitation in  
39 subdivision (b), increase the rates charged residential customers  
40 for electricity usage up to 130 percent of the baseline quantities,

1 as defined in Section 739, by the annual percentage change in the  
2 Consumer Price Index from the prior year plus 1 percent, but not  
3 less than 3 percent and not more than 5 percent per year. For  
4 purposes of this subdivision, the annual percentage change in the  
5 Consumer Price Index shall be calculated using the same formula  
6 that was used to determine the annual Social Security Cost of  
7 Living Adjustment on January 1, 2008. This subdivision shall  
8 become inoperative on January 1, 2019, unless a later enacted  
9 statute deletes or extends that date.

10 (b) The rates charged residential customers for electricity usage  
11 up to the baseline quantities, including any customer charge  
12 revenues, shall not exceed 90 percent of the system average rate  
13 prior to January 1, 2019, and may not exceed 92.5 percent after  
14 that date. For purposes of this subdivision, the system average rate  
15 shall be determined by dividing the electrical corporation's total  
16 revenue requirements for bundled service customers by the adopted  
17 forecast of total bundled service sales.

18 (c) This section does not require the commission to increase  
19 any residential rate or restrict, or otherwise limit, the authority of  
20 the commission to reduce any residential rate in effect immediately  
21 preceding January 1, 2010.

22 SEC. 7. Section 745 is added to the Public Utilities Code, to  
23 read:

24 745. (a) The commission shall not require or permit an  
25 electrical corporation to employ mandatory dynamic pricing for  
26 residential customers.

27 (b) The commission may authorize an electrical corporation to  
28 offer residential customers the option of receiving service pursuant  
29 to dynamic pricing.

30 (c) The commission may, beginning January 1, 2016, authorize  
31 an electrical corporation to employ default dynamic pricing for  
32 residential customers, if the customer has the option of receiving  
33 service pursuant to a rate schedule that is not based upon dynamic  
34 pricing. The commission shall only approve an electrical  
35 corporation's default use of dynamic pricing if residential  
36 customers that exercise the option to not receive service pursuant  
37 to dynamic pricing incur no additional costs as a result of the  
38 exercise of that option.

39 SEC. 8. Section 80110 of the Water Code is amended to read:

1     80110. (a) The department shall retain title to all ~~power~~  
2 *electricity* sold by it to the retail end-use customers. The department  
3 shall be entitled to recover, as a revenue requirement, amounts and  
4 at the times necessary to enable it to comply with Section 80134,  
5 and shall advise the commission as the department determines to  
6 be appropriate.

7     (b) The revenue requirements may also include any advances  
8 made to the department hereunder or hereafter for purposes of this  
9 division, or from the Department of Water Resources Electric  
10 Power Fund, and General Fund moneys expended by the  
11 department pursuant to the Governor's Emergency Proclamation  
12 dated January 17, 2001.

13     (c) (1) For the purposes of this division and except as otherwise  
14 provided in this section, the Public Utility Commission's authority  
15 as set forth in Section 451 of the Public Utilities Code shall apply,  
16 except any just and reasonable review under Section 451 shall be  
17 conducted and determined by the department. Prior to the execution  
18 of any modification of any contract for the purchase of ~~power~~  
19 *electricity* by the department pursuant to this division, on or after  
20 the effective date of this section, the department or the commission,  
21 as applicable, shall do the following:

22     (A) The department shall notify the public of its intent to modify  
23 a contract and the opportunity to comment on the proposed  
24 modification.

25     (B) At least 21 days after providing public notice, the department  
26 shall make a determination as to whether the proposed  
27 modifications are just and reasonable. The determination shall  
28 include responses to any public comments.

29     (C) No later than 70 days before the date of execution of the  
30 contract modification, the department shall provide a written report  
31 to the commission setting forth the justification for the  
32 determination that the proposed modification is just and reasonable,  
33 including documents, analysis, response to public comments, and  
34 other information relating to the determination.

35     (D) Within 60 days of the date of receipt of the department's  
36 written report, the commission shall review the report and make  
37 public its comments. If the commission in its comments  
38 recommends against the proposed modification, the department  
39 shall not execute the proposed contract modification.

1 (2) This subdivision does not apply to the modification of a  
2 contract modified to settle litigation to which the commission is  
3 a party.

4 (3) This subdivision does not apply to the modification of a  
5 contract for the purchase of electricity that is generated from a  
6 facility owned by a public agency if the contract requires the public  
7 agency to sell electricity to the department at or below the public  
8 agency's cost of that ~~power~~ *electricity*.

9 (4) This subdivision does not apply to the modification of a  
10 contract to address issues relating to billing, scheduling, delivery  
11 of electricity, and related contract matters arising out of the  
12 implementation by the Independent System Operator of its market  
13 redesign and technology upgrade program.

14 (5) (A) For purposes of this subdivision, the department  
15 proposes to "modify" a contract if there is any material change  
16 proposed in the terms of the contract.

17 (B) A change to a contract is not material if it is only  
18 administrative in nature or the change in ratepayer value results  
19 in ratepayer savings, not to exceed twenty-five million dollars  
20 (\$25,000,000) per year. For the purpose of making a determination  
21 that a change is only administrative in nature or results in ratepayer  
22 savings of twenty-five million dollars (\$25,000,000) or less per  
23 year, the executive director of the commission shall concur in  
24 writing with each of those determinations by the department.

25 (d) The commission may enter into an agreement with the  
26 department with respect to charges under Section 451 for purposes  
27 of this division, and that agreement shall have the force and effect  
28 of a financing order adopted in accordance with Article 5.5  
29 (commencing with Section 840) of Chapter 4 of Part 1 of Division  
30 1 of the Public Utilities Code, as determined by the commission.

31 ~~(e) In no case shall the commission increase the electricity~~  
32 ~~charges in effect on the date that the act that adds this section~~  
33 ~~becomes effective for residential customers for existing baseline~~  
34 ~~quantities or usage by those customers of up to 130 percent of~~  
35 ~~existing baseline quantities, until such time as the department has~~  
36 ~~recovered the costs of power it has procured for the electrical~~  
37 ~~corporation's retail end-use customers as provided in this division.~~

38 ~~(f) After the passage of a period of time after February 1, 2001,~~  
39 ~~as shall be determined by the commission, the~~

1     (e) *Except as expressly authorized by, and subject to the*  
2 *limitations in, Section 365, the right of retail end-use customers*  
3 *pursuant to Article 6 (commencing with Section 360) of Chapter*  
4 *2.3 of Part 1 of Division 1 of the Public Utilities Code to acquire*  
5 *service from other providers—shall be is suspended until—the*  
6 *department no longer supplies power hereunder the Legislature,*  
7 *by statute, repeals the suspension or otherwise authorizes direct*  
8 *transactions. The*

9     (f) *The department shall have the same rights with respect to*  
10 *the payment by retail end-use customers for power electricity sold*  
11 *by the department as do providers of power electricity to the*  
12 *customers.*

13     SEC. 9. No reimbursement is required by this act pursuant to  
14 Section 6 of Article XIII B of the California Constitution because  
15 the only costs that may be incurred by a local agency or school  
16 district will be incurred because this act creates a new crime or  
17 infraction, eliminates a crime or infraction, or changes the penalty  
18 for a crime or infraction, within the meaning of Section 17556 of  
19 the Government Code, or changes the definition of a crime within  
20 the meaning of Section 6 of Article XIII B of the California  
21 Constitution.

22     SEC. 10. This act is an urgency statute necessary for the  
23 immediate preservation of the public peace, health, or safety within  
24 the meaning of Article IV of the Constitution and shall go into  
25 immediate effect. The facts constituting the necessity are:

26     In order to avert a rate crisis involving unfair and unreasonable  
27 rates being charged for electric and gas service by electrical and  
28 gas corporations, it is necessary that this act take effect  
29 immediately.